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(Letter of Reprimand)

3. In 1998 the Board and Respondent entered into a Consent Agreement and Order ("Order") requiring Respondent to have a female chaperone present during all physical examinations of female patients. On August 28, 2003 Respondent self-reported to the Board that a review of his hospital charts by Banner Thunderbird Medical Center revealed that he had violated the Order by conducting physical examinations of female patients without the presence of a female chaperone.

1 4. Respondent testified that since he entered the Order with the Board he has
2 tried very diligently to practice in accordance with its terms and that he recognizes and
3 respects the importance of the Order. Respondent testified that he has been absolutely
4 complaint with the Order in his office practice, in the emergency room, in the operating
5 room and in labor and delivery. Respondent testified that he failed to be in compliance
6 while doing rounds in the hospital because there were a few situations where he found it
7 difficult to find a nurse who was available to accompany him on rounds. Respondent
8 testified that when he could not locate a nurse to accompany him he was forced to
9 choose between not inspecting a post-operative wound and seeing a patient without a
10 chaperone. Respondent testified that he provided post-operative care and inspected
11 wounds, but did not conduct pelvic examinations.

12 5. Respondent testified that he practices at two hospitals, but only had this
13 problem at the one hospital because the other hospital has a greater nursing volume.
14 Respondent was asked if he ever requested the hospital provide him with special
15 assistance so that he could comply with the Order. Respondent stated that he had
16 spoken with the nursing supervisors on various floors of the hospital and made them
17 aware there was a need, but even so it was difficult due to staffing issues and other
18 demands on the nurses. Respondent stated that he did not know what generated the
19 survey of his records that was conducted by the hospital.

20 6. Respondent testified that he had not asked the Board to modify the Order
21 because he had been advised by previous legal counsel not to do so. According to
22 Respondent he was advised that if he so asked, he could end up with a greater sanction
23 because he would be admitting to being unable to comply. Respondent testified that he
24 usually encountered problems finding a nurse to round with him during the afternoon
25 hours and that he was able to have a nurse round with him during other times of day.

1 7. Respondent was asked if he ever thought of hiring a Registered Nurse or
2 Physician Assistant who could have accompanied him on rounds. Respondent stated
3 that as an obstetrician/gynecologist he would work at least 36-hour shifts and anyone he
4 hired would be required to be with him for that entire time as a result he would require
5 several people and that would be financially prohibitive.

6 **CONCLUSIONS OF LAW**

7 1. The Arizona Medical Board possesses jurisdiction over the subject matter
8 hereof and over Respondent.

9 2. The Board has received substantial evidence supporting the Findings of
10 Fact described above and said findings constitute unprofessional conduct or other
11 grounds for the Board to take disciplinary action.

12 3. The conduct and circumstances described above constitutes unprofessional
13 conduct pursuant to A.R.S. § 32-1401(26¹)(r) ("[v]iolating a formal order, probation,
14 consent agreement or stipulation issued or entered into by the board or its executive
15 director under the provisions of this chapter.")

16 **ORDER**

17 Based upon the foregoing Findings of Fact and Conclusions of Law,
18 IT IS HEREBY ORDERED that Respondent is issued a Letter of Reprimand for
19 violating a Board Order.

20 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

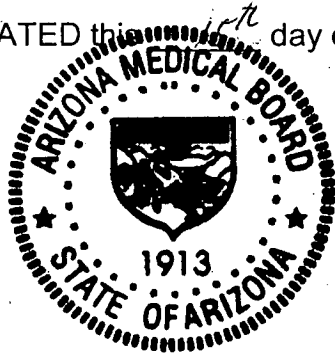
21 Respondent is hereby notified that he has the right to petition for a rehearing or
22 review. Pursuant to A.R.S. § 41-1092.09, as amended, the petition for rehearing or
23 review must be filed with the Board's Executive Director within thirty (30) days after
24

25 _____
¹ Formerly A.R.S. § 32-1401(24). Renumbered effective September 18, 2003.

1 service of this Order and pursuant to A.A.C. R4-16-102, it must set forth legally sufficient
2 reasons for granting a rehearing or review. Service of this order is effective five (5) days
3 after date of mailing. If a motion for rehearing or review is not filed, the Board's Order
4 becomes effective thirty-five (35) days after it is mailed to Respondent.

5 Respondent is further notified that the filing of a motion for rehearing or review is
6 required to preserve any rights of appeal to the Superior Court.

7 DATED this 17th day of APRIL, 2004.



8 THE ARIZONA MEDICAL BOARD

9
10
11 By *Barry Cassidy*
12 BARRY A. CASSIDY, Ph.D., PA-C
13 Executive Director

14 ORIGINAL of the foregoing filed this
15 16th day of April, 2004 with:

16 Arizona Medical Board
17 9545 East Doubletree Ranch Road
18 Scottsdale, Arizona 85258

19 Executed copy of the foregoing
20 mailed by U.S. Certified Mail this
21 16th day of April, 2004, to:

22 Terry Woods
23 7835 North 21st Drive
24 Phoenix, Arizona 85021-0001

25 Executed copy of the foregoing
mailed by U.S. Mail this
16th day of April, 2004, to:

Gustave Matson, M.D.
Address of Record.

For McGraw